

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

<b>MONTRICIA PITTMAN,</b>	]	
	]	
<b>Plaintiff,</b>	]	
	]	
<b>vs.</b>	]	<b>Case Number: 2:06CV507-WKW</b>
	]	
<b>MONTGOMERY COUNTY SHERIFF'S</b>	]	
<b>DEPARTMENT; and D.T. MARSHALL,</b>	]	
	]	
<b>Defendants.</b>	]	

**AMENDED AND RESTATED MOTION TO DISMISS OF DEFENDANTS  
MONTGOMERY COUNTY SHERIFF'S DEPARTMENT  
AND SHERIFF D.T. MARSHALL**

COME NOW the Defendants identified in the Complaint as the "Montgomery County Sheriff's Department," and Sheriff D.T. Marshall, pursuant to Rule 12(b), Fed. R.Civ. P., and amend and restate their previously-filed Motion to Dismiss (Doc. # 6) and request that the Court dismiss Plaintiff's Complaint, as amended. Defendants show as follows:

1. Plaintiff's claims against the Defendant identified in the Complaint as the "Montgomery County Sheriff's Department" should be dismissed because the "Montgomery County Sheriff's Department" is not an entity capable of being sued. *Dean v. Barber*, 951 F.2d 1210, 1214 (11<sup>th</sup> Cir. 1992).
2. Plaintiff has failed to adequately plead a claim for sex discrimination.
3. Plaintiff has failed to adequately plead a claim for retaliation.
4. Plaintiff's Complaint is due to be dismissed for failure to satisfactorily exhaust administrative remedies.

**WHEREFORE, THE PREMISES CONSIDERED,** Defendants move this Court to dismiss Plaintiff's Complaint and grant them any other relief to which they may be entitled.

s/ Constance C. Walker  
Thomas T. Gallion, III (ASB-5295-L74T)  
Constance C. Walker (ASB-5510-L66C)

**OF COUNSEL:**

**HASKELL SLAUGHTER YOUNG & GALLION, LLC**

305 South Lawrence Street  
Post Office Box 4660  
Montgomery, Alabama 36103-4660  
(334) 265-8573  
(334) 264-7945 (fax)

**CERTIFICATE OF SERVICE**

I hereby certify that on the 6<sup>th</sup> day of June, 2007, I electronically filed the foregoing with the Clerk of the Court using the **CM/ECF** system that will send notification of such filing to the following counsel:

Deborah M. Nickson  
2820 Fairlane Drive, Ste. A-10  
Montgomery, Alabama 36116

s/ Constance C. Walker  
Of Counsel